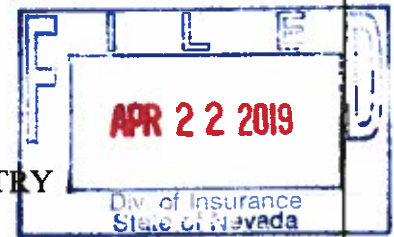


STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE



IN THE MATTER OF

ESURRANTY, INC.; ANGELO MAIMONE;
SEAN HENSON; RICK LEWIS; JON
BENTON; DOES I-X AND ROES I-X,

Respondent.

CAUSE NO. 17.0399

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
RECOMMENDATION OF THE
HEARING OFFICER AND ORDER
OF THE COMMISSIONER**

The hearing in this matter was properly noticed and held on March 22, 2019, at 9:00 a.m. at the offices of the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), located at 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706. Some testimony was given by videoconference from the Division offices in Las Vegas, Nevada. The hearing was held pursuant to chapter 233B of the Nevada Revised Statutes (“NRS”), Title 57 of the NRS, including 679B *et seq.*, chapter 679B of the Nevada Administrative Code (“NAC”), and all other applicable laws and regulations.

Present for the Division was David Hall, Esq. (“Hall”), Insurance Counsel. Angelo Maimone (“Respondent Maimone”) was present and attended the hearing by teleconference. Hall noted for the record that the Division was not able to locate, serve or interview Sean Henson (“Henson”), Rick Lewis (“Lewis”), and Jon Benton (“Benton”). Therefore, Hall stated that the Division would prepare a pleading to dismiss any allegations or charges against Henson, Lewis or Benton. Hall further stated that the requested dismissal would be without prejudice. Terri Chambers presided as the Hearing Officer.

SUMMARY OF PROCEEDINGS

This matter was initiated on June 22, 2018, when the Commissioner issued an Order to Cease and Desist against eSurranty, Inc. (“Respondent eSurranty”). Respondent eSurranty was ordered to immediately cease and desist from providing, issuing, selling, or offering for sale, service contracts and/or personal electronics insurance within the state of Nevada. Respondent eSurranty was further ordered to furnish the Division a copy of any and all contracts, be they

1 service contracts, insurance contracts or personal electronics insurance contracts, offered by
2 eSurranty. In addition, Respondent eSurranty was ordered to administer the service contracts
3 and/or personal electronics insurance policies existing in Nevada, pay all legitimate claims
4 now owing, and work with the Division to resolve any existing or future consumer complaints.
5 Finally, Respondent eSurranty was ordered to immediately provide a disclaimer and/or
6 disclosure on its internet website, marketing materials, written communications and through
7 oral communication, to the effect that its service contracts, personal electronic insurance, and
8 any other services are not available to persons or entities of Nevada. The Order was mailed to
9 5550 Painted Mirage Rd., Suite 320, Las Vegas, Nevada 89149 which is the only address listed
10 by Respondent eSurranty on website of the Nevada Secretary of State. The mailing was
11 returned to the Division as undeliverable and unable to forward.

12 These proceedings were then formally initiated on December 19, 2018, when the
13 Division, by and through its attorney, Hall, filed the Complaint and Application for Order to
14 Show Cause (“Complaint”). Insurance Commissioner, Barbara Richardson (“Commissioner”),
15 issued an Order to Show Cause and Notice of Hearing and Order Appointing Hearing Officer
16 on December 20, 2018. Both orders were sent to the Respondent eSurranty and Respondent
17 Maimone (collectively “Respondents”) by registered mail and by email¹. Email delivery
18 confirmation was received by the Division evidencing proper service.

19 On December 28, 2018, the Hearing Officer issued a Pre-Hearing Order that detailed
20 the responsibilities of each party and provided instruction regarding representation by counsel,
21 communication with the Hearing Officer, filings, motions and evidence. The Pre-Hearing
22 Order was sent to Respondents by registered mail and by email. Email delivery confirmation
23 was received by the Division evidencing proper service.

24 On January 15, 2019, the Division and Respondents submitted a Joint Request to
25 Continue Hearing. The parties advised that they were in discussions with the intent to possibly
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27 ¹ In addition to the Nevada address, the Division discovered an address in Miami, Florida at which Respondents
28 could be and were served.

1 resolve the matter without a hearing. The Hearing Officer issued an Order Continuing Hearing
2 on January 16, 2019.

3 On February 26, 2019, the Division submitted a Request to Set Hearing Date. The
4 Division stated that Respondents had not contacted the Division and that none of the
5 information the Division requested, and that the Respondent had promised, had been received.
6 An Order Resetting Hearing Date was issued on March 1, 2019, setting a hearing date of
7 March 22, 2019, which is approximately 60 days after the date originally set for the hearing of
8 January 25, 2019 and approximately 60 days after the Pre-Hearing Order was issued informing
9 the parties of their opportunity to retain legal counsel.

10 On March 1, 2019, the Hearing Officer issued another Pre-Hearing Order. The Pre-
11 Hearing Order again detailed the responsibilities of each party and again provided instruction
12 regarding representation by counsel. This Pre-Hearing Order was sent to Respondents by
13 registered mail and by email. Email delivery confirmation was received by the Division
14 evidencing proper service.

15 On March 19, 2019, Respondents again contacted the Division requesting that the
16 Hearing be continued for a period of 120 days to allow sufficient time for Respondents to
17 "procure proper legal representation."

18 On March 19, 2019, Division's counsel filed an Opposition to Respondent's Request
19 for Continuance of Hearing Date. The Division stated that Respondents still had not provided
20 any of the documentation as promised and had not been in contact with the Division to answer
21 questions relevant to this matter. The Hearing Officer issued an Order Denying Request for
22 Continuance on March 20, 2019. Said Order was sent to the Respondents by registered mail
23 and by email. Said Order denied Respondents request for the continuance finding that the
24 request was made in bad faith and for purposes of delay. Email delivery confirmation was
25 received by the Division evidencing proper service.

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27 **WITNESSES**

28 **KIM KUHLMAN.** Kim Kuhlman ("Kuhlman"), testified as Compliance/Audit

1 Investigator II for the Division. Kuhlman reviewed and authenticated Exhibits 2 through 10.
2 Each of the exhibits were complaints received by the Division regarding Respondent
3 eSurranty. Kuhlman verified that each complaint indicated Respondent eSurranty's address as
4 5550 Painted Mirage Road, Suite 320, Las Vegas, Nevada 89149. She confirmed that each of
5 the complaints against Respondent eSurranty were similar in nature and generally concerned
6 Respondent eSurranty's failure to repair or replace their devices, or failure to respond to
7 consumer inquiries.

8 **JAMES "RICK" DUTTON.** ("Dutton") testified as Compliance/Audit Investigator II
9 for the Department of Business & Industry, Nevada Consumer Affairs Office ("NCA").
10 Dutton testified that their office became aware of Respondent eSurranty following receipt of
11 their first complaint in October 2017. Dutton testified that their office had received a total of 7
12 complaints from consumers (one from Nevada) regarding their dealings with Respondent
13 eSurranty. Dutton further testified that each complaint listed Respondent eSurranty's address
14 as 5550 Painted Mirage Road, Suite 320, Las Vegas, Nevada 89149. In addition, Dutton stated
15 that the complaints were all similar in nature as each consumer complained that Respondent
16 eSurranty failed to repair or return their electronic devices, and that Respondent eSurranty had
17 not responded to their many requests for resolution. Dutton reviewed and testified regarding
18 Exhibits 11-18. Dutton also reviewed and testified regarding Exhibit 23 which contained a
19 copy of Respondent eSurranty's coverage summary showing its business at the same location
20 previously identified on Painted Mirage Road in Las Vegas.

21 **JOHN PARNELL.** John Parnell, Compliance/Audit Investigator for the Division was
22 sworn to testify regarding a list of criminal charges against Respondent Maimone (Exhibit 24).
23 Respondent Maimone stipulated to the accuracy of the charges, and admitted that he had been
24 convicted of various charges 15 to 20 years ago. Respondent Maimone stated that he would
25 stipulate to the admission of the evidence if it was understood that "he had never served a state
26 prison sentence in any state in the country or prison in the world." As Respondent stipulated
27 to the acceptance of Exhibit 24, the testimony of Parnell was not needed to establish that topic.

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EXHIBITS

After proper relevance and foundation were established, the Hearing Officer admitted the following exhibits into evidence:

Exhibit #	Description
2	Division Consumer Complaint dated June 30, 2016;
3	Division Consumer Complaint dated January 6, 2017;
4	Division Consumer Complaint dated June 5, 2017;
5	Division Consumer Complaint dated June 23, 2017;
6	Division Consumer Complaint dated August 9, 2017;
7	Division Consumer Complaint dated September 5, 2017;
8	Division Consumer Complaint dated October 11, 2018;
9	Division Consumer Complaint dated May 11, 2018;
10	Division Consumer Complaint dated February 21, 2019;
11	Nevada Consumer Affairs ("NCA") Complaint dated October 12, 2017;
12	NCA Complaint dated February 9, 2018;
13	NCA Complaint dated February 28, 2018;
14	NCA Complaint dated April 4, 2018;
15	NCA Complaint dated April 17, 2018;
16	NCA Complaint dated June 1, 2018;
17	NCA Complaint dated June 12, 2018;
18	NCA Complaint dated July 10, 2018;
19	Secretary of State Business Entity Search Result;
20	Email from Intelligent Offices to David Hall, dated October 22, 2018;
21	Screenshot of eSurranty.com;
22	Sircon Search Result;
23	eSurranty contract;
24	Summary Criminal History.

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FINDINGS OF FACT

1. eSurranty, Inc. was incorporated as a domestic corporation with the Nevada Secretary of State on December 20, 2015.

2. In the corporate filing for eSurranty, Inc., Angelo Maimone is listed as the Registered Agent, with an address at 5550 Painted Mirage Road, Suite 320, Las Vegas, Nevada 89149.

3. In the corporate filing for eSurranty, Angelo Maimone is listed as the President, Treasurer and Director of eSurranty, Inc. Maimone's address is listed as 5550 Painted Mirage Road, Suite 320, Las Vegas, Nevada 89149.

4. eSurranty, Inc. is not licensed in any capacity with the Division.

5. Angelo Maimone does not hold a license of any kind issued by the Division.

6. Nine consumer complaints received by the Division indicate that Respondents sold contracts via the internet for the repair or replacement of personal electronic devices.

7. Seven consumer complaints received by the Nevada Consumer Affairs Office show that Respondents sold contracts via the internet for the repair or replacement of personal electronic devices.

8. In at least 16 consumer complaint cases, Respondents failed to properly service or administer the policies that it sold to those consumers by failing to pay claims or respond to the policyholder inquiries.

9. Respondents sold policies of portable electronics insurance to residents of Nevada and other states.

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CONCLUSIONS OF LAW

Based upon all pleadings and papers on file in this matter, the testimony of the witnesses, a review of the exhibits admitted at the hearing, and the foregoing Findings of Fact, the Hearing Officer makes the following Conclusions of Law:

1. The Commissioner has jurisdiction over the matter pursuant to NRS 679B.120 and NRS 679B.130.

2. All pleadings filed in this matter were properly and timely served on Respondent pursuant to NRS 679B.140.

1 3. All testimony provided by the Division's witnesses is found to be credible.

2 4. The testimony of Respondent Maimone is found to be inconsistent and unreliable. As a
3 result, the testimony of Respondent Maimone is found not to be credible. Respondent
4 Maimone claims that he had evidence to refute the Division's claims but would need additional
5 time to produce. Respondent Maimone did not clearly define the role of Respondents and
6 referred to Respondents' role as a dealer for others. Respondent Maimone presented no
7 evidence, other witness testimony or exhibits to support his statements or arguments presented.

8 5. The products sold by Respondents are subject to the provisions of chapter 691D of
9 NRS.

10 **6. NRS 680A.060 Certificate of authority required; penalty.**

- 11 1. A person shall not act as an insurer and an insurer shall not transact insurance in
12 this State by mail or otherwise, except as authorized by a certificate of authority
13 issued by the Commissioner and then in full force, and except as to such
14 transactions as are expressly otherwise provided in this Code.
15 2. A domestic insurer and a foreign insurer from offices or by personnel or
16 facilities located in this State shall not solicit insurance applications or
17 otherwise transact insurance in another state or country unless it holds a
18 subsisting certificate of authority granted to it by the Commissioner authorizing
19 it to transact the same kind or kinds of insurance in this State.
20 3. Any officer, director, agent, representative or employee of any insurer who
21 willfully authorizes, negotiates, makes or issues any insurance contract in
22 violation of this section is guilty of a misdemeanor.

18 The Division presented substantial evidence during the hearing through witness
19 testimony and exhibits, and proved by a preponderance of the evidence that Respondents have
20 a business office in Nevada, a resident agent in Nevada, have been advertising a Las Vegas,
21 Nevada address for eSurranty, and have been transacting insurance in and outside of Nevada
22 using the Nevada address. The Division has also proved by a preponderance of the evidence
23 that Respondents are representing eSurranty as an insurer and underwriter of insurance
24 covering the repair or replacement of electronic devices. Finally, the Division has proven by
25 the preponderance of the evidence that Respondents have no certificate of authority in Nevada.
26 As a result, Respondents are in violation of NRS 680A.060

27 **7. NRS 679B.185(1) Administrative fine for willfully engaging in unauthorized
28 transaction of insurance: Limitation; enforcement.**

1. If any person willfully engages in the unauthorized transaction of insurance, the

1 Commissioner may impose an administrative fine of not more than \$10,000 for
2 each act or violation.

3 The Division presented substantial evidence during the hearing through witness
4 testimony and exhibits, and proved by a preponderance of the evidence that Respondents
5 willfully engaged in the unauthorized transaction of insurance in and from Nevada.
6 Respondents sold insurance policies to consumers, both residents of Nevada and out-of-state,
7 for the repair and replacement of personal electronic devices. Exhibits presented by the
8 Division clearly show that Respondents solicited consumers via the internet. Respondents
9 consistently represented their business address as 5550 Painted Mirage Road, Las Vegas,
10 Nevada 89149. In its solicitations and advertising, Respondents represented eSurranty as the
11 "underwriter," and at other times, represented eSurranty as the insurer. Substantial evidence
12 was presented proving Respondents hold no certificates, registrations or licenses issued by the
13 Division. Respondent failed to provide witness testimony, exhibits or other facts to disprove
14 the evidence presented by the Division. As a result, Respondents are in violation of NRS
15 679B.185(1) for 16 acts of the unauthorized transaction of insurance based on 16 consumer
16 complaints.

17 **8. NRS 691D.200(1) License required to sell or offer portable electronics**
18 **insurance; contents of application.**

19 1. A vendor shall not sell or offer coverage under a policy of portable electronics
20 insurance unless the vendor holds a license as a producer of insurance in
portable electronics insurance as a limited line issued by the Commissioner
pursuant to NRS 683A.261 or 683A.271

21 The Division presented substantial evidence during the hearing through witness
22 testimony and exhibits, and proved by a preponderance of the evidence that neither Respondent
23 eSurranty nor Respondent Maimone were or are licensed as producers pursuant to chapter
24 683A of NRS or as vendors pursuant to NRS 691D.200(1). As a result, Respondents are in
25 violation of NRS 691D.200(1).

26 **9. NRS 691D.510(1) Administrative fines; suspension of privilege of vendor,**
27 **employee or authorized representative to sell or offer portable electronics**
28 **insurance; suspension or revocation of license.**

If a vendor or an employee or authorized representative of a vendor violates any
provision of this chapter or an order or regulation of the Commissioner issued or

1 adopted pursuant thereto, the Commissioner may, after notice and an opportunity
2 for a hearing:

- 3 1. Impose an administrative fine for each violation, which must not exceed
4 \$50,000 in aggregate.

5 The Division presented substantial evidence during the hearing through witness
6 testimony and exhibits, and proved by a preponderance of the evidence that 16 consumers were
7 harmed when they purchased insurance policies from Respondents. Respondents also failed to
8 meet their contractual obligations to their policyholders when claims were remitted for proper
9 adjudication. Respondents acted as an insurer and a vendor without having a certificate of
10 authority or license to do so. Respondents failed to present witness testimony or exhibits or
11 other facts to disprove the Division's case. Although Respondents do not hold any licenses in
12 Nevada that would be subject to suspension or revocation, NRS 691D.510(1) does provide
13 consequences for unlawful activity in the form of administrative fine. In this situation, the
14 maximum allowable for violations of NRS 691D.510(1) is \$50,000, based upon \$3,125 for
15 each of the 16 consumer complaints.

16 **10. NRS 686A.310(1)(b) Unfair practices in settling claims; liability of insurer for
17 damages.**

- 18 1. Engaging in any of the following activities is considered to be an unfair
19 practice:

20 ...
21 b. Failing to acknowledge and act reasonably promptly upon
22 communications with respect to claims arising under insurance policies.

23 The Division presented substantial evidence during the hearing through witness
24 testimony and exhibits, and proved by a preponderance of the evidence that Respondents failed
25 to adequately service at least 16 policyholders by "failing to acknowledge and act reasonably
26 promptly upon communication with respect to claims arising under insurance policies." These
27 consumers were consistent in their complaints that Respondents failed to promptly process
28 their claims and failed to communicate with them regarding the status of their claims.
Respondents presented no witness testimony, exhibits or other facts to support its claim that
the consumers were, in fact, well satisfied with their services. As a result, Respondents are in
violation of NRS 686A.310(1)(b).

1 **11. NRS 686A.183 Cease and desist orders and penalties for prohibited practices;**
2 **modification and setting aside of Commissioner's orders.**

3 1. After the hearing provided for in NRS 686A.160, the Commissioner shall issue
4 an order on hearing pursuant to NRS 679B.360. If the Commissioner
5 determines that the person charged has engaged in an unfair method of
6 competition or an unfair or deceptive act or practice in violation of NRS
7 686A.010 to 686A.310, inclusive, the Commissioner shall order the person to
8 cease and desist from engaging in that method or competition, act or practice,
9 and may order one or both of the following:

- 10 a. If the person knew or reasonably should have known that he or she was in
11 violation of NRS 686A.010 to 686A.310, inclusive, payment of an
12 administrative fine of not more than \$5,000 for each act or violation, except
13 that as to licensed agents, brokers, solicitors and adjusters, the
14 administrative fine must not exceed \$500 for each act or violation.

15 ...

16 Respondents should have reasonably known that they were in violation of NRS
17 686A.310, Respondents were transacting insurance without a license or certification of any
18 kind. Respondents then, willfully disregarded the contractual obligation to consumers who
19 relied upon the policies they purchased to repair or replace their electronic devices.

20 Respondents offered no factual or credible witness testimony, exhibits or any evidence
21 of any kind to substantiate its claims in contradiction to the Division's case. Respondents have
22 violated multiple statutes and are subject to a fine of \$5,000 for each of the 16 consumer
23 complaints identified at hearing.

24 **RECOMMENDATION OF THE HEARING OFFICER**

25 Based on the testimony and exhibits contained in the record, all pleadings and
26 documents filed in this matter, and pursuant to the foregoing Findings of Fact and Conclusions
27 of Law, the Hearing Officer makes the following recommendations:

28 **A. FINES**

1. Pursuant to NRS 691D.200(1) and NRS 691D.510:

- A fine of \$50,000 (maximum)

2. Pursuant to NRS 686A.310(1)(b) and NRS 686A.183:

- A fine of \$80,000 (\$5,000 x 16 = \$80,000)

3. Pursuant to NRS 679B.185:

- A fine of \$160,000 (\$10,000 x 16 = \$160,000)

1 The total fine amount of \$290,000 to be paid within 30 days of the date of the Order of
2 the Commissioner.

3 B. CEASE AND DESIST

4 Respondents are ordered to immediately cease and desist all uncertified, unlicensed
5 and/or unregistered activity in or from Nevada.

6 C. NOTICE

7 Respondents are ordered to immediately place a notice on any and all solicitation or
8 advertising material that they are not licensed in Nevada and their products are not available in
9 Nevada.

10 D. CONTRACTUAL OBLIGATIONS

11 The issuance of the Order of the Commissioner does not relieve Respondents from any
12 contractual obligations they may have to consumers who purchased their products.

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15 DATED this 22nd day of April, 2019.



TERRI CHAMBERS
Hearing Officer

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ORDER OF THE COMMISSIONER

Based on the testimony and exhibits contained in the record, all pleadings and documents filed, and having reviewed the Hearing Officer's Findings of Facts and Conclusions of Law in this matter, Cause No. 17.0399, I concur with the Hearing Officer's Recommendation. For good cause appearing, I specifically adopt the Findings of Fact, Conclusions of Law, and Recommendation of the Hearing Officer.

IT IS SO ORDERED.

DATED this 22nd day of April, 2019.



BARBARA D. RICHARDSON
Commissioner of Insurance

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CERTIFICATE OF MAILING

I hereby certify that I have this day sent the **FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION OF THE HEARING OFFICER AND ORDER OF THE COMMISSIONER, CAUSE NO. 17.0399**, by mailing true and correct copies via Certified mail, properly addressed with postage prepaid, to:

ANGELO MAIMONE
5550 PAINTED MIRAGE RD STE 320
LAS VEGAS NV 89149
CERTIFIED MAIL NO.: 7018 1830 0001 5808 7005


ANGELO MAIMONE
14034 SW 54TH STREET
MIAMI FL 33187
CERTIFIED MAIL NO.: 7018 1830 0001 5808 7012

and, electronic copies of the foregoing documents were sent via Email to:

ANGELO MAIMONE
Email: angelom1@esurranty.com

DAVID R HALL ESQ
INSURANCE COUNSEL
NEVADA DIVISION OF INSURANCE
1818 E COLLEGE PKWY STE 103
CARSON CITY NV 89706
Email: dhall@doi.nv.gov

DATED this 22nd day of April, 2019.



Employee of the State of Nevada
Department of Business and Industry
Division of Insurance